



CASE PP/1-22699/A/CGM 515/PCT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE PCT NATIONAL STAGE APPLICATION OF
JOCHEN FINK ET AL
INTERNATIONAL APPLICATION NO. PCT/EP 03/06165
FILED: JUNE 12, 2003
FOR: GRAFTING OF NITROXYL TERMINATED
OLIGOMERS OR POLYMERS ONTO
THERMOPLASTIC POLYMERS
U.S. APPLICATION NO: 10/518,873
35 USC 371 DATE: DECEMBER 20, 2004

Group Art Unit: 1796
Examiner: Jeffrey C. Mullis

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

TRANSMITTAL LETTER

Sir:

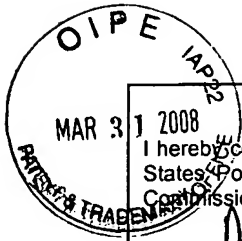
Enclosed herewith is the Appeal Brief in the above-identified application.

Please charge Deposit Account No. 03-1935 in the amount of \$510.00 for payment of the fee. Two additional copies of this paper are here enclosed. The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment, to Account No. 03-1935.

Respectfully submitted,

Tyler A. Stevenson
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CASE PP/1-22699/A/CGM 515/PCT

CERTIFICATE OF MAILING

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Anna R. Maddalena 3/28/08
Signature Date

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE PCT NATIONAL STAGE APPLICATION OF
JOCHEN FINK ET AL

Group Art Unit: **1796**

Examiner: **Jeffrey C. Mullis**

INTERNATIONAL APPLICATION NO. **PCT/EP 03/06165**

Confirmation No. 3532

FILED: June 12, 2003

FOR: GRAFTING OF NITROXYL TERMINATED

OLIGOMERS OR POLYMERS ONTO

THERMOPLASTIC POLYMERS

U.S. APPLICATION NO: 10/518,873

35 USC 371 DATE: December 20, 2004

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

APPEAL BRIEF

Sir:

This Appeal is from the Final Rejection of claims 1 and 7-20 of the Office Action dated October 30, 2007.

The Notice of Appeal was timely mailed by first class mail with a Certificate of Mailing on January 30, 2008 and was filed with the USPTO on February 1, 2008, making this Brief due on April 1, 2008. This Brief is timely filed.

The Commissioner is hereby authorized to charge any necessary fee or credit any overpayment to Deposit Account No. 03-1935.

03/31/2008 HVUONG1 00000050 031935 10518873

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(1) Real Party of Interest

The real party of interest, by virtue of an assignment recorded in the U.S. Patent and Trademark Office on July 5, 2005, reel/frame 016740/0233, is:

Ciba Specialty Chemicals Corp.
P.O. Box 2005
540 White Plains Road
Tarrytown, New York 10591

(2) Related Appeals and Interferences

To the knowledge of the undersigned, there are no related appeals or interferences.

(3) Status of the Claims

Claims 1 and 7-20 are pending and are under consideration.

Claims 1 and 7-20 are rejected and are presented for appeal.

Claims 1 and 7-20 are present in an attached appendix with status identifiers.

(4) Status of the Amendments

The Amendment filed September 28, 2007 brings up to date the status of the claims.

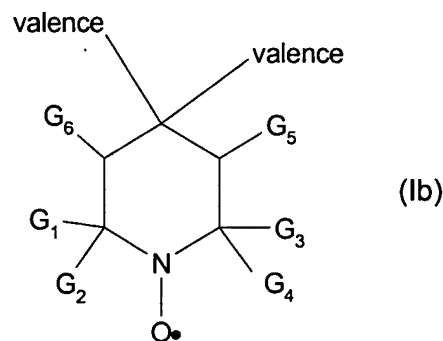
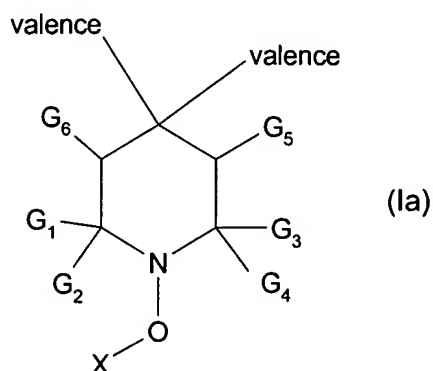
In the Amendment, claims 1, 7 and 18 were amended.

(5) Summary of the Claimed Subject Matter

Claim 1 is aimed at a process for the preparation of a grafted thermoplastic or elastomeric polymer or copolymer.

The process comprises in a first step A), preparing a nitroxyl terminated oligomer or polymer by controlled free radical polymerization of an ethylenically unsaturated monomer or monomer mixture in the presence of a nitroxyl ether or in the presence of a nitroxyl radical and a free radical initiator.

The nitroxyl ether contains the structural element (Ia) and the nitroxyl radical contains the structural element (Ib):



The unreacted monomer or monomers are removed and the nitroxyl terminated oligomer or polymer is isolated. The nitroxyl terminated oligomer or polymer is also termed a “macroinitiator”. Support for this limitation is found in the specification, page 24, paragraph 5. Support is also found in the working Examples on pages 42-50. The product of step A) of the working Examples is termed a “macroinitiator”.

The process comprises in a second step B), heating, mixing and reacting the nitroxyl terminated oligomer or polymer of step A) together with a thermoplastic or elastomeric polymer or copolymer at a temperature of between 150°C and 300°C.

The oligomer or polymer of the nitroxyl terminated oligomer or polymer is grafted onto the thermoplastic or elastomeric polymer, third full paragraph of page 2 of the disclosure.

Support for claim 1 is found in the paragraph bridging pages 3 and 4 of the disclosure.

The group X is specifically defined as in the paragraph bridging pages 9 and 10 of the disclosure, less the term "glycidyoxy".

All other claims 7-20 are directly or indirectly dependent upon independent claim 1.

Claim 7 is aimed at where the nitroxyl ether or nitroxyl radical is of formula A, A', B, B', O or O' as defined on pages 11-14 of the disclosure. The group X is defined as in claim 1.

Claim 8 is aimed at where the nitroxyl ether or nitroxyl radical is of formula A, A', B, B', O or O' as defined on pages 14-16 of the disclosure.

Claim 9 requires that G₂ and G₄ are ethyl, G₁ and G₃ are methyl, G₆ is hydrogen and G₅ is methyl. Support is found in the first full paragraph of page 16.

Claim 10 requires the free radical initiator to be a bis-azo compound, a peroxide, a perester or a hydroperoxide. Support is found in the last paragraph of page 19.

Claim 11 is focused on where the nitroxyl ether or nitroxyl radical is present in an amount of from 0.001 mol % to 20 mol %, based on the monomer or monomer mixture. Support is found in the third paragraph of page 20 of the disclosure.

Claim 12 requires that the free radical initiator be present in an amount of from 0.001 mol % to 20 mol %, based on the monomer or monomer mixture. Support is found in the first paragraph of page 21 of the specification.

Claim 13 requires that the ethylenically unsaturated monomers are styrene, substituted styrene, conjugated dienes, vinyl acetate, vinylpyrrolidone, vinylimidazole, maleic anhydride, (alkyl)acrylic acidanhydrides, (alkyl)acrylic acid salts, (alkyl)acrylic esters, (meth)acrylonitriles, (alkyl)acrylamides, vinyl halides or vinylidene halides. Support is found in the third paragraph of page 21.

Claim 14 requires that the ethylenically unsaturated monomers are of a specific structure as defined in the fourth paragraph of page 21 of the disclosure.

Claim 15 is aimed at where step B) is performed in an extruder, mixer or kneading apparatus. Support is found in the first paragraph of page 28 of the specification.

Claim 16 is focused on where in step B), additionally a processing stabilizer and/or antioxidant is employed. Support is found in the penultimate paragraph of page 41.

Claim 17 requires that a radical generator be added in step B). Support is found in the disclosure, page 30, fifth paragraph.

Claim 18 is aimed at where the nitroxyl terminated polymer or oligomer of step A) has a number average molecular weight of from 1000 to 100,000 Daltons. This is found in the specification, page 27, fourth full paragraph.

Claim 19 requires that the nitroxyl terminated polymer or oligomer of step A) as a polydispersity of from 1.0 to 2.0. Support is found on page 27, penultimate paragraph.

Claim 20 is focused on where the nitroxyl terminated polymer or oligomer of step A) is added to the thermoplastic or elastomeric polymer or copolymer in an amount from 0.1% to 50% by weight based on the weight of the thermoplastic or elastomeric polymer or copolymer. Support is found in the third paragraph of page 30 of the disclosure.

(6) Grounds of Rejection to be Reviewed on Appeal

The grounds for rejection for review are:

1) Claims 1 and 7-20 are rejected under 35 USC 102(e) as being anticipated by Chin, et al., U.S. Pat. No. 6,444,754.

(7) Argument

All claims 1 and 7-20 are argued together as one group.

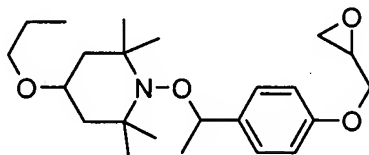
Chin discloses polymer compositions comprising polyphenylene ether or polystyrene blended with polyamides or polyesters. A compatibilizer prepared in the presence of a glycidyl functionalized nitroxyl initiator is employed in the blends.

The Examiner points to Example 3 of Chin where a functionalized polystyrene of Example 2 is employed as a compatibilizer for polyphenylene ether/polyamide blends.

The compatibilizer of Chin would be equivalent to a present nitroxyl terminated polymer or oligomer of step A). The Examiner contends that Examples 2 and 3 of Chin would correspond to present steps A) and B).

In Example 2 of Chin, a polystyrene is prepared that will contain both a glycidyl group and an oxyamine group, col. 3 lines 27-33.

The compound (101) of Chin, and all nitroxyl ether initiators of Chin, require the presence of a glycidyloxy group. Compound (101) of Chin is:



The glycidyloxy group is: COCC5OC5

The nitroxyl ethers of Chin are $>\text{N}-\text{O}-\text{X}$ compounds where X is for instance $-\text{CH}(\text{CH}_3)\text{aryl}$ substituted by glycidyloxy. All nitroxyl ethers of Chin are substituted by glycidyloxy.

The Examiner contends that when present X is $\text{alkyl}(\text{C}_1\text{-C}_{18})\text{-}\overset{\text{H}}{\underset{|}{\text{C}}}\text{-aryl}$ that aryl may be

substituted by glycidyloxy. The present >N-O-X initiators would then have overlap with those of Chin.

Appellants submit that this is not possible.

In the Amendment filed September 28, 2007, glycidyloxy was deleted from claim 7 as a possible substituent for an aryl group of X. Glycidyloxy is also absent from amended claim 1 as a possible substituent for an aryl group of X.

Thus, there is no possible overlap of the present nitroxyl ether compounds with those of Chin. The present claims do not allow for an aryl group of X to be substituted by glycidyloxy.

Chin clearly does not anticipate the present claims.

Further, it was pointed out in the response filed September 28, 2007 that Chin qualifies as 102(e) prior art.

The presently claimed invention and U.S. Pat. No. 6,444,754 were, at the time the invention was made, entirely assigned to Ciba Specialty Chemicals Corp. or were subject to an obligation of assignment to Ciba Specialty Chemicals Corp. Thus any 35 USC 103(a) rejections over Chin are obviated.

In view of these remarks, Appellants submit that the 35 USC 102(e) rejections are addressed and are overcome.

Appellants submit that the rejections are in error and respectfully request that they be reversed.

Respectfully submitted,



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Attachments: Claims Appendix
Evidence Appendix
Related Proceedings Appendix
Transmittal Letter

(8) Claims Appendix Claims 1 and 7-20

1. (previously presented) A process for the preparation of a grafted thermoplastic or elastomeric polymer or copolymer, which process comprises in a first step

A) the preparation of a nitroxyl terminated oligomer or polymer by controlled free radical polymerization of an ethylenically unsaturated monomer or monomer mixture

a1) in the presence of a nitroxyl ether containing a structural element of formula (Ia), wherein X is selected such, that cleavage of the O-X bond occurs and a radical X• is formed capable of initiating polymerization; or

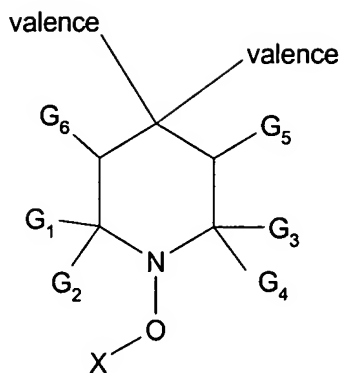
a2) in the presence of a nitroxyl radical containing a structural element of formula (Ib) and a free radical initiator capable of initiating polymerization;

where unreacted monomer or monomers are removed and the nitroxyl terminated oligomer or polymer is isolated,

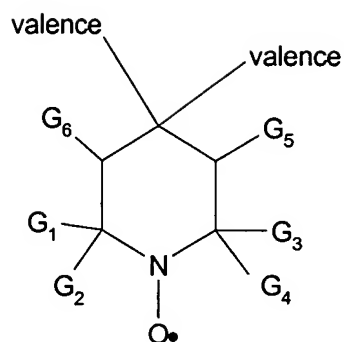
and in a second step

B) heating, mixing and reacting the nitroxyl terminated oligomer or polymer of step A) together with a thermoplastic or elastomeric polymer or copolymer at a temperature of between 150° C and 300° C,

wherein the structural elements of formula (Ia) and (Ib) are



(1a)



(1b)

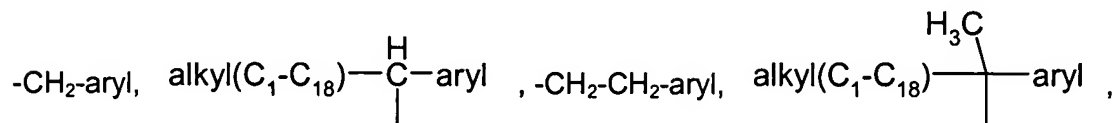
wherein

G₁, G₂, G₃, G₄ are independently C₁-C₆alkyl or G₁ and G₂ or G₃ and G₄, or G₁ and G₂ and G₃ and G₄ together form a C₅-C₁₂cycloalkyl group; and

G₅, G₆ independently are H, C₁-C₁₈alkyl, phenyl, naphthyl or a group COOC₁-C₁₈alkyl,

where

X is selected from the group consisting of



(C₅-C₆cycloalkyl)₂CCN, (C₁-C₁₂alkyl)₂CCN, -CH₂CH=CH₂, (C₁-C₁₂)alkyl-CR₂₀-C(O)-(C₁-C₁₂)alkyl,

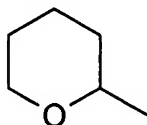
(C₁-C₁₂)alkyl-CR₂₀-C(O)-(C₆-C₁₀)aryl, (C₁-C₁₂)alkyl-CR₂₀-C(O)-(C₁-C₁₂)alkoxy,

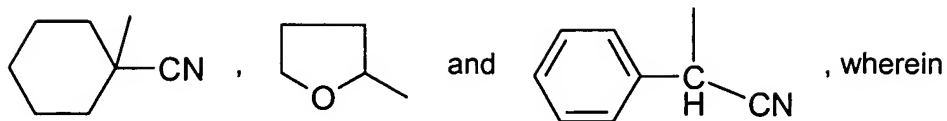
(C₁-C₁₂)alkyl-CR₂₀-C(O)-phenoxy, (C₁-C₁₂)alkyl-CR₂₀-C(O)-N-di(C₁-C₁₂)alkyl,

(C₁-C₁₂)alkyl-CR₂₀-CO-NH(C₁-C₁₂)alkyl, (C₁-C₁₂)alkyl-CR₂₀-CO-NH₂,

-CH₂CH=CH-CH₃, -CH₂-C(CH₃)=CH₂, -CH₂-CH=CH-phenyl, -CH₂-C \equiv CH,

3-cyclohexenyl, 3-cyclopentenyl,





R_{20} is hydrogen or C_1 - C_{12} alkyl;

the alkyl groups are unsubstituted or substituted with one or more -OH, -COOH or $-C(O)R_{20}$ groups;

and

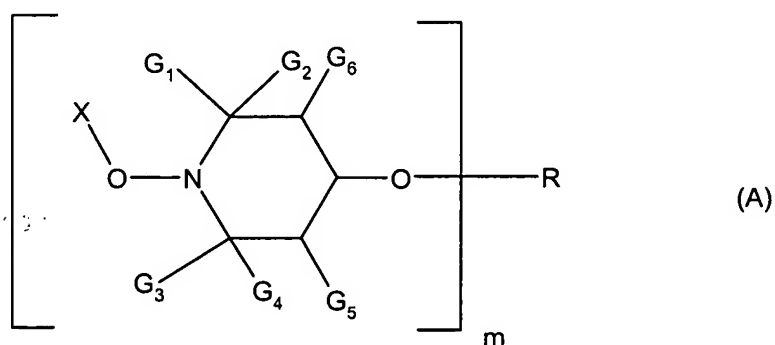
the aryl groups are phenyl or naphthyl which are unsubstituted or substituted with C_1 - C_{12} alkyl,

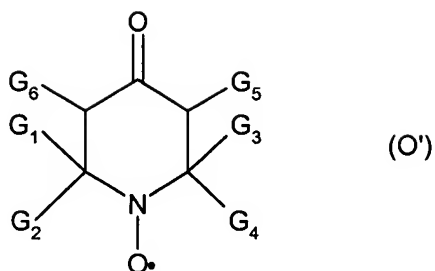
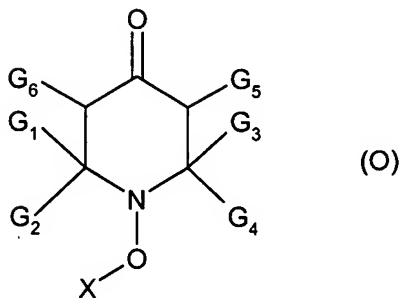
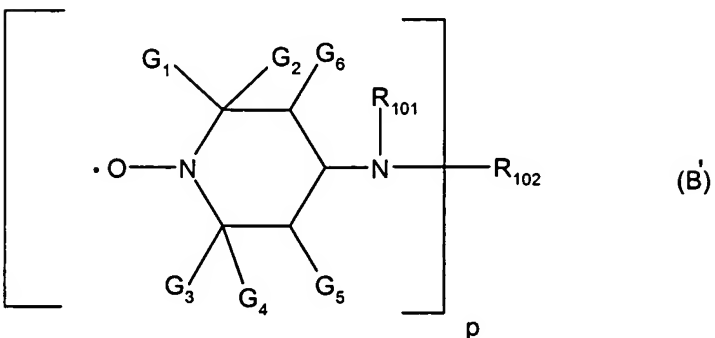
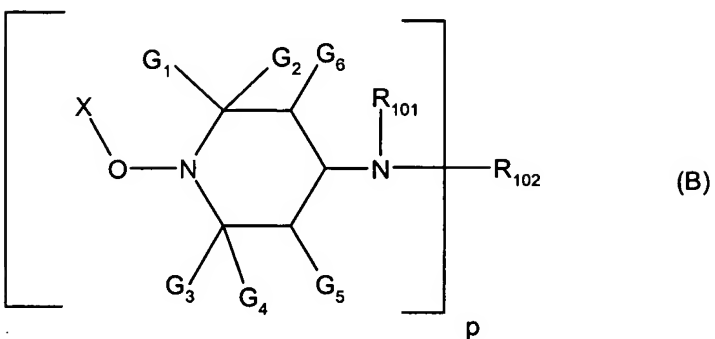
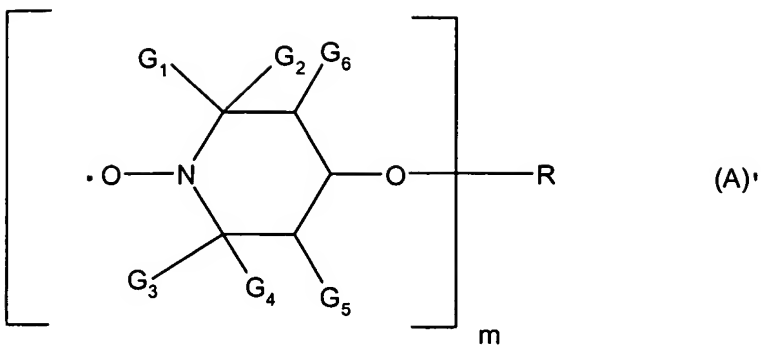
halogen, C_1 - C_{12} alkoxy, C_1 - C_{12} alkylcarbonyl, OH, -COOH or $-COO(C_1-C_{12})$ alkyl and

where the thermoplastic or elastomeric polymer or copolymer is selected from the group consisting of low density polyethylene, high density polyethylene, polypropylene, polystyrene, styrene-block copolymers, ethylene-propylene-diene modified rubber, ethylene propylene rubber, polybutylene, polyisobutylene and poly-4-methylpentene-1.

2-6. (canceled)

7. (previously presented) A process according to claim 1 wherein the nitroxyl ether or the nitroxyl radical is of formula A, A', B, B' O or O'





wherein

G₁, G₂, G₃ and G₄ are independently alkyl of 1 to 4 carbon atoms, or G₁ and G₂ together and G₃ and G₄ together, or G₁ and G₂ together or G₃ and G₄ together are pentamethylene;

G₅ and G₆ are independently hydrogen or C₁-C₄ alkyl;

m is 1, 2, 3 or 4

R, if m is 1, is hydrogen, C₁-C₁₈alkyl which is uninterrupted or C₂-C₁₈alkyl which is interrupted by one or more oxygen atoms, cyanoethyl, benzoyl, glycidyl, a monovalent radical of an aliphatic carboxylic acid having 2 to 18 carbon atoms, of a cycloaliphatic carboxylic acid having 7 to 15 carbon atoms, or an α,β -unsaturated carboxylic acid having 3 to 5 carbon atoms or of an aromatic carboxylic acid having 7 to 15 carbon atoms, where each carboxylic acid can be substituted in the aliphatic, cycloaliphatic or aromatic moiety by 1 to 3 -COOZ₁₂ groups, in which Z₁₂ is H, C₁-C₂₀alkyl, C₃-C₁₂alkenyl, C₅-C₇cycloalkyl, phenyl or benzyl; or

R is a monovalent radical of a carbamic acid or phosphorus-containing acid or a monovalent silyl radical;

R, if m is 2, is C₂-C₁₂alkylene, C₄-C₁₂alkenylene, xylylene, a divalent radical of an aliphatic dicarboxylic acid having 2 to 36 carbon atoms, or a cycloaliphatic or aromatic dicarboxylic acid having 8-14 carbon atoms or of an aliphatic, cycloaliphatic or aromatic dicarbamic acid having 8-14 carbon atoms, where each dicarboxylic acid may be substituted in the aliphatic, cycloaliphatic or aromatic moiety by one or two -COOZ₁₂ groups; or

R is a divalent radical of a phosphorus-containing acid or a divalent silyl radical;

R, if m is 3, is a trivalent radical of an aliphatic, cycloaliphatic or aromatic tricarboxylic acid, which may be substituted in the aliphatic, cycloaliphatic or aromatic moiety by -COOZ₁₂, of an aromatic tricarbamic acid or of a phosphorus-containing acid, or is a trivalent silyl radical,

R, if m is 4, is a tetravalent radical of an aliphatic, cycloaliphatic or aromatic tetracarboxylic acid;

p is 1, 2 or 3,

R₁ is C₁-C₁₂alkyl, C₅-C₇cycloalkyl, C₇-C₈aralkyl, C₂-C₁₈alkanoyl, C₃-C₅alkenoyl or benzoyl;

when p is 1,

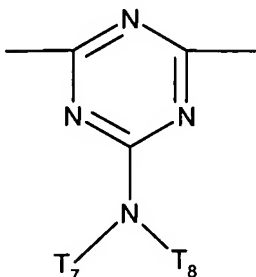
R₂ is C₁-C₁₈alkyl, C₅-C₇cycloalkyl, C₂-C₈alkenyl unsubstituted or substituted by a cyano, carbonyl or carbamide group, or is glycidyl, a group of the formula -CH₂CH(OH)-Z or of the formula -CO-Z- or -CONH-Z wherein Z is hydrogen, methyl or phenyl; or

when p is 2,

R₂ is C₂-C₁₂alkylene, C₆-C₁₂-arylene, xylylene, a -CH₂CH(OH)CH₂-O-B-O-CH₂CH(OH)CH₂- group, wherein B is C₂-C₁₀alkylene, C₆-C₁₅arylene or C₆-C₁₂cycloalkylene; or, provided that R₁ is not alkanoyl, alkenoyl or benzoyl, R₂ can also be a divalent acyl radical of an aliphatic, cycloaliphatic or aromatic

dicarboxylic acid or dicarbamic acid, or can be the group -CO-; or R₁ and R₂ together when p is 1 can be the cyclic acyl radical of an aliphatic or aromatic 1,2- or 1,3-dicarboxylic acid; or

R₂ is a group

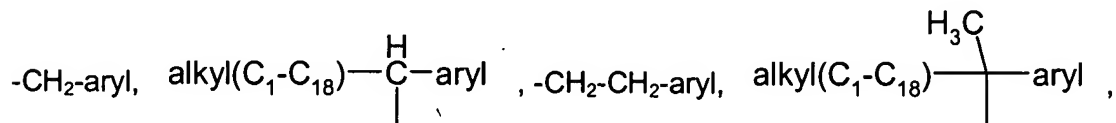


where T₇ and T₈ are independently hydrogen, alkyl of 1 to 18 carbon atoms, or T₇ and T₈ together are alkylene of 4 to 6 carbon atoms or 3-oxapentamethylene;

when p is 3,

R₂ is 2,4,6-triazinyl; and

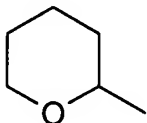
X is selected from the group consisting of

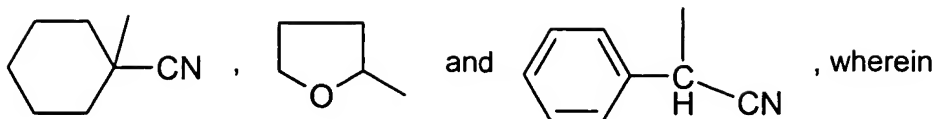


(C₅-C₆cycloalkyl)₂CCN, (C₁-C₁₂alkyl)₂CCN, -CH₂CH=CH₂, (C₁-C₁₂)alkyl-CR₂₀-C(O)-(C₁-C₁₂)alkyl,
 (C₁-C₁₂)alkyl-CR₂₀-C(O)-(C₆-C₁₀)aryl, (C₁-C₁₂)alkyl-CR₂₀-C(O)-(C₁-C₁₂)alkoxy,
 (C₁-C₁₂)alkyl-CR₂₀-C(O)-phenoxy, (C₁-C₁₂)alkyl-CR₂₀-C(O)-N-di(C₁-C₁₂)alkyl,
 (C₁-C₁₂)alkyl-CR₂₀-CO-NH(C₁-C₁₂)alkyl, (C₁-C₁₂)alkyl-CR₂₀-CO-NH₂,

-CH₂CH=CH-CH₃, -CH₂-C(CH₃)=CH₂, -CH₂-CH=CH-phenyl, -CH₂-C \equiv CH,

3-cyclohexenyl, 3-cyclopentenyl,



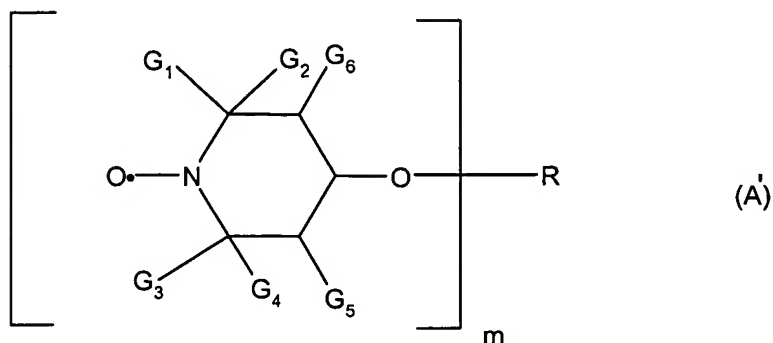
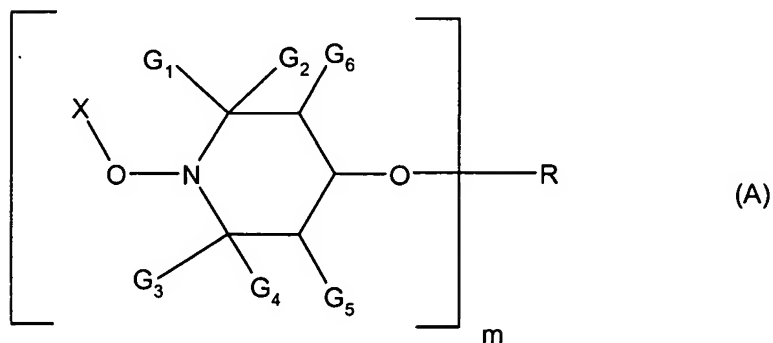


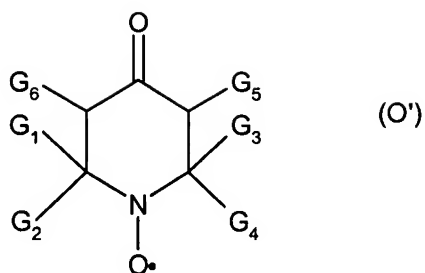
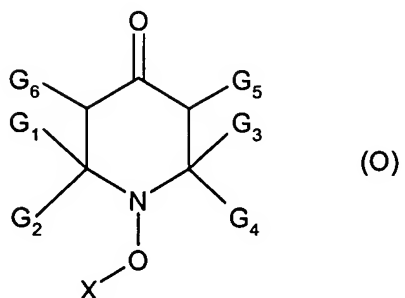
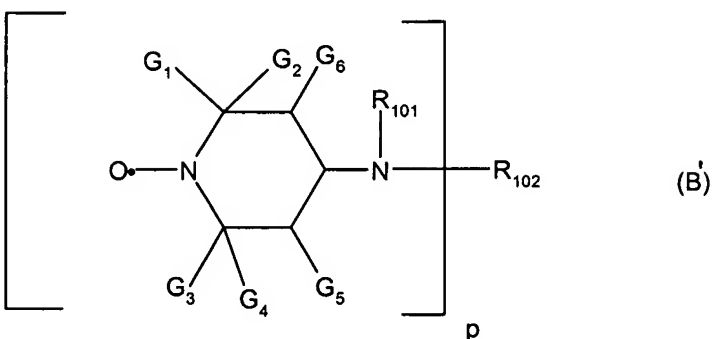
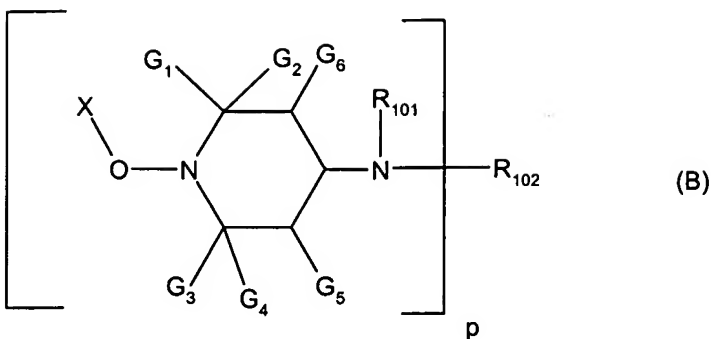
R_{20} is hydrogen or C_1 - C_{12} alkyl;

the alkyl groups are unsubstituted or substituted with one or more $-OH$, $-COOH$ or $-C(O)R_{20}$ groups; and

the aryl groups are phenyl or naphthyl which are unsubstituted or substituted with C_1 - C_{12} alkyl, halogen, C_1 - C_{12} alkoxy, C_1 - C_{12} alkylcarbonyl, OH , $-COOH$ or $-COO(C_1-C_{12})$ alkyl.

8. (previously presented) A process according to claim 7 wherein the nitroxyl ether or the nitroxyl radical is of formula A, A', B, B', O or O'





wherein

m is 1,

R is hydrogen, C₁-C₁₈alkyl which is uninterrupted or interrupted by one or more oxygen atoms, cyanoethyl, benzoyl, glycidyl, a monovalent radical of an aliphatic carboxylic acid having 2 to 18 carbon atoms, of a cycloaliphatic carboxylic acid having 7 to 15 carbon atoms, or an α,β -unsaturated carboxylic acid having 3 to 5 carbon atoms or of an aromatic carboxylic acid having 7 to 15 carbon atoms;

p is 1;

R₁₀₁ is C₁-C₁₂alkyl, C₅-C₇cycloalkyl, C₇-C₈aralkyl, C₂-C₁₈alkanoyl, C₃-C₅alkenoyl or benzoyl;

R₁₀₂ is C₁-C₁₈alkyl, C₅-C₇cycloalkyl, C₂-C₈alkenyl unsubstituted or substituted by a cyano, carbonyl or carbamide group, or is glycidyl, a group of the formula -CH₂CH(OH)-Z or of the formula -CO-Z or -CONH-Z wherein Z is hydrogen, methyl or phenyl;

G₆ is hydrogen and G₅ is hydrogen or C₁-C₄alkyl,

G₁, G₂, G₃ and G₄ are methyl; or

G₁ and G₃ are methyl and G₂ and G₄ are ethyl or propyl or G₁ and G₂ are methyl and G₃ and G₄ are ethyl or propyl; and

X is selected from the group consisting of

-CH₂-phenyl, CH₃CH-phenyl, (CH₃)₂C-phenyl, (C₅-C₈cycloalkyl)₂CCN, (CH₃)₂CCN, -CH₂CH=CH₂, CH₃CH-CH=CH₂ (C₁-C₄alkyl)CR₂₀-C(O)-phenyl, (C₁-C₄)alkyl-CR₂₀-C(O)-(C₁-C₄)alkoxy, (C₁-C₄)alkyl-CR₂₀-C(O)-(C₁-C₄)alkyl, (C₁-C₄)alkyl-CR₂₀-C(O)-N-di(C₁-C₄)alkyl, (C₁-C₄)alkyl-CR₂₀-C(O)-NH(C₁-C₄)alkyl and (C₁-C₄)alkyl-CR₂₀-C(O)-NH₂, wherein R₂₀ is hydrogen or (C₁-C₄)alkyl.

9. (original) A process according to claim 7 wherein G₂ and G₄ are ethyl, G₁ and G₃ are methyl; G₆ is hydrogen and G₅ is methyl.

10. (original) A process according to claim 1 wherein the free radical initiator of component a2) is a bis-azo compound, a peroxide, a perester or a hydroperoxide.

11. (original) A process according to claim 1, wherein the nitroxylether of component a1) or the nitroxyl radical of component a2) is present in an amount of from 0.001 mol-% to 20 mol-%, based on the monomer or monomer mixture.

12. (original) A process according to claim 1, wherein the free radical initiator is present in an amount of from 0.001 mol-% to 20 mol-%, based on the monomer or monomer mixture.

13. (previously presented) A process according to claim 1, wherein the ethylenically unsaturated monomer is selected from the group consisting of styrene, substituted styrene, conjugated dienes,

vinyl acetate, vinylpyrrolidone, vinylimidazole, maleic anhydride, (alkyl)acrylic acid anhydrides, (alkyl)acrylic acid salts, (alkyl)acrylic esters, (meth)acrylonitriles, (alkyl)acrylamides, vinyl halides and vinylidene halides.

14. (previously presented) A process according to claim 12, wherein the ethylenically unsaturated monomer is a compound of formula $\text{CH}_2=\text{C}(\text{R}_a)-(\text{C}=\text{Z})-\text{R}_b$, wherein R_a is hydrogen or $\text{C}_1\text{-C}_4$ alkyl, R_b is NH_2 , $\text{O}^-(\text{Me}^+)$, glycidyl, unsubstituted $\text{C}_1\text{-C}_{18}$ alkoxy, $\text{C}_2\text{-C}_{100}$ alkoxy interrupted by at least one N and/or O atom, or hydroxy-substituted $\text{C}_1\text{-C}_{18}$ alkoxy, unsubstituted $\text{C}_1\text{-C}_{18}$ alkylamino, di($\text{C}_1\text{-C}_{18}$ alkyl)amino, hydroxy-substituted $\text{C}_1\text{-C}_{18}$ alkylamino or hydroxy-substituted di($\text{C}_1\text{-C}_{18}$ alkyl)amino, $-\text{O}-\text{CH}_2-\text{CH}_2-\text{N}(\text{CH}_3)_2$ or $-\text{O}-\text{CH}_2-\text{CH}_2-\text{N}^+\text{H}(\text{CH}_3)_2 \text{An}^-$; An^- is an anion of a monovalent organic or inorganic acid; Me is a monovalent metal atom or the ammonium ion and Z is oxygen or sulfur.

15. (original) A process according to claim 1 wherein step B) is performed in an extruder, mixer or kneading apparatus.

16. (original) A process according to claim 1 wherein in step B) additionally a processing stabilizer and/or antioxidant is added.

17. (original) A process according to claim 1 wherein in step B) additionally a radical generator is added.

18. (previously presented) A process according to claim 1 wherein the nitroxyl terminated polymer or oligomer of step A) has a number average molecular weight of from 1000 to 100 000 Dalton.

19. (previously presented) A process according to claim 1 wherein the nitroxyl terminated polymer or oligomer of step A) has a polydispersity (PD) from 1.0 to 2.0.

20. (original) A process according to claim 1 wherein the nitroxyl terminated polymer or oligomer of step A) is added to the thermoplastic or elastomeric polymer or copolymer in an amount from 0.1% to 50% by weight based on the weight of the thermoplastic or elastomeric polymer or copolymer.

21. (canceled)

22. (canceled)

(9) Evidence Appendix

No evidence is submitted for consideration.

(10) Related Proceedings Appendix

To the knowledge of the undersigned, there are no related appeals or interferences, and thus, no related court or Board decisions.